

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Carney et al

Serial No. 08/962,040

Examiner D.C. Jones

Art Unit 1614

Filed: October 31, 1997

For: SPIN-TRAPPING PHARMACEUTICAL COMPOSITIONS
AND METHODS OF USE THEREOF

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REQUEST FOR INTERFERENCE
PURSUANT TO 37 CFR 1.607

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

Applicants request that an interference be declared between the instant application and U.S. Patent No. 5,679,691 (Ribier et al) which was granted on October 21, 1997.

Applicants propose the following count for the interference:

Count 1: A method for the prophylaxis or treatment of a patient suffering from a dysfunction or disease condition arising from oxidative damage comprising topically administering to the patient in need thereof an effective oxidative damage-treating amount of a spin trapping compound in a pharmaceutically acceptable carrier for topical administration to said patient.

At least claims 1, 2, 3, 4, 5, 12 and 13 of U.S. Patent No. 5,679,691 correspond to the proposed count.

Claims 28-51 of the instant application correspond to the proposed count.

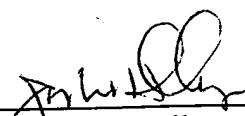
Applicants also inform the Examiner that the asserted effective date of the claimed invention corresponding to the count is June 18, 1991, which antedates both the earliest U.S. filing date of December 30, 1994 claimed by U.S. Patent No. 5,679,691, as well as the French priority date of December 30, 1993. Applicants intend to demonstrate priority of invention as to the subject matter of the proposed count.

The instant application claims benefit of the following prior applications for which support resides for the presently-claimed invention:

- (1) Application No. 08/167,900, filed July 29, 1994;
- (2) Application No. 08/212,800, filed March 15, 1994;
- (3) Application No. 08/52,870, filed April 23, 1993; and
- (4) Application No. 07/716,952, filed June 18, 1991.

The asserted priority date establishes that applicants are *prima facie* entitled to priority of invention.

Respectfully submitted,

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